



U.S. Department of the Interior
"To-Be" Trust Business Model
Process Template

Title: Prepare Probate Case

Identify the process in the "Verb Noun" format. (Ex: Maintain Ownership)

Process Number

O.3.1 _____

1. Process Definition *Provide an overview of the process and define its starting and ending points*

1.1 Starts With	Notification of a death or a request for a presumption of death hearing.
1.2 Process Overview	<p>This initial step is to query the Integrated Database to identify the decedents Trust assets, if any. If Trust assets exist the Probate staff prepares a Probate file using the Estate Probate Program. When all documentation is complete the probate file, which includes a proposed decision, is electronically released to the Office of Trust Adjudication. If preparation of the case was prompted by a request for a presumption of death hearing, the Estate Probate Program will guide the preparer in collection of the additional documentation needed for a presumption of death hearing.</p> <p>Identify problems with this process that may be resolved through BRDM (B.5.1 Conduct Outreach Activities and B.5.2 Post Outreach Activities). Provide support and/or participate in outreach activities.</p>
1.3 Stops With	Electronic transfer of the completed probate file, including a proposed decision, to the Office of Trust Adjudication.

2. Trust Business Objectives *Identify the Comprehensive Trust Management Plan strategic goals and business objectives to which this process contributes.*

Goal/Objective
2.1 Expand self-governance compacts and self-determination contracts. Foster expansion of self-governance compacts and self-determination contracts in a manner consistent with DOI's fiduciary responsibilities.
3.2. Probate and estate administration. Consistently prioritize and quickly resolve probate and estate administration cases to effectively meet asset management and beneficiary service requirements.
3.3. Title, realty, and administrative information. Develop, maintain, and make readily available accurate and current asset ownership and administrative information managed to professional fiduciary standards

3. How should Beneficiaries be involved in this process?

Beneficiary Involvement
Reports death to the Probate staff and provides any needed documents and genealogy information to prepare the case, or needed information/documentation for a presumption of death hearing.



U.S. Department of the Interior
"To-Be" Trust Business Model
Process Template

Title: Prepare Probate Case

Identify the process in the "Verb Noun" format. (Ex: Maintain Ownership)

Process Number

O.3.1 _____

4. Organizations, Offices and Roles. *Identify the organizations that should be involved in performing the process.*

4.1 DOI Organizations. *Identify the DOI organizations, offices and roles that contribute to this process.*

DOI organizations include the Office of the Secretary, BIA, OST, BLM, MMS, OHA, OSM among others.

Offices include Central Offices, Regional Offices, Agency(Field) Offices, etc.

Using the CTM, Appendix D, identify and describe each role that contributes to the execution of the process.

Organization	Office	Role	Contribution
BIA	Regional		If Regional office is operating as an agency, query integrated data to identify decedents trust assets, if any. Compile all needed documents. Identify problems with the process that may be resolved through BRDM outreach activities. Provide support and/or participate in the outreach activity.
BIA	Agency/Field		Query integrated data to identify decedents trust assets, if any. Compile all needed documents. Identify problems with the process that may be resolved through BRDM outreach activities. Provide support and/or participate in the outreach activity.
DOI/NBC	OAS		Provide appraisal/valuation when needed
DOI	Regional Solicitors Office		Available for technical assistance to the Probate staff during prepare case.
OST	Integrated Servicing Office		When OTFM learns of a death they place the account into estate status which in turn electronically notifies the agency(s) where the decedent had trust/restricted assets. Relays Customer needs to the Probate Staff
Tribes	Applicable Tribal office		For compacted and contracting Tribes that have assumed this



U.S. Department of the Interior
"To-Be" Trust Business Model
Process Template

Title: Prepare Probate Case

Identify the process in the "Verb Noun" format. (Ex: Maintain Ownership)

Process Number

O.3.1 _____

Organization	Office	Role	Contribution
	office.		Tribes that have assumed this responsibility, the Tribe performs all DOI functions except those considered inherently federal. Identify problems with the process that may be resolved through BRDM outreach activities. Provide support and/or participate in the outreach activity.
BIA	Integrated Servicing Office		Relays Customer needs to the Probate Staff
BIA	Integrated Servicing Office		Relays Customer needs to the Probate Staff

4.2 Non-DOI Organizations. Identify the non-DOI organizations that support the execution or contribute to this process.

Non-DOI Organization	Contribution
Tribes	For non-contracting/compacting Tribes they may supply genealogy information, Tribal resolution for purchase options, claims, Tribal court documents (adoptions, divorces, guardianship, and marriage) and Tribal enrollment documents.
State Vital Statistics Offices	Vital Statistics Documents.

5. Event(s) Identify the events or conditions that start the process. Describe each event and indicate the frequency (daily, monthly, quarterly, etc.) in which each event is expected to occur. An event may be an external interaction (a beneficiary submits an application), the expiration of a period of time (a lease is due to expire in 90 days), or the realization of some pre-defined threshold (an IIM account reaches the automatic disbursement threshold).

Event	Description	Estimated Frequency
Death of an Indian	Death of an Indian with trust/restricted assets	
Request for Presumption of Death	Request for presumption of death of an individual whose whereabouts are unknown and whose absence cannot be explained	



U.S. Department of the Interior
"To-Be" Trust Business Model
Process Template

Title: Prepare Probate Case

Identify the process in the "Verb Noun" format. (Ex: Maintain Ownership)

Process Number

O.3.1 _____

Event	Description	Estimated Frequency
	absence cannot be explained.	
ILCA Reversals	Reversals that result in property going to a person who is deceased but at the time of their death did not have trust/restricted assets to probate.	
Probate Modification	In cases where a probate modification results in property going to a person who is deceased and at their time of death did not have trust assets to probate.	

6. Inputs and Outputs. *Identify and describe all inputs and outputs related to this process. Inputs are information or materials used during the execution of the process; outputs are materials or information produced by the process.*

6.1 Inputs

Input	Description
Estate Assets Report	Certified inventory of land and cash holdings of the decedent. Replaces a BIAINV, TSR and account balances from OTFM.
Document(s) verifying Decedents death.	Certified copy of a death certificate, original death certificate, a copy of a certified copy of a death certificate (certified by a BIA official), or, if none exists, other governmental verification (SS, VA), affidavit of death by the Tribe or person with direct knowledge of the death.
Will	All wills and any codicils exiting at the time of death.
Genealogy	Completion of the genealogy part of the probate program. Decedent's marriages, children, children of deceased children, parents, brothers and sisters, children of deceased brothers and sisters, grandparents, collateral relatives, adopted children and children adopted out.
Claims	Name of the claimant, itemized statement, Affidavit supporting the claim.
Appraisal/Valuation	If circumstances require appraisal/valuation.
Renunciation/Disclaimer	Heir renounces and disclaims their rights to the trust/restricted property. They may or may not reserve a life estate.
People search results	Internet people search results for whereabouts-unknown (probable heirs, presumption of death cases, etc).



U.S. Department of the Interior
"To-Be" Trust Business Model
Process Template

Title: Prepare Probate Case

Identify the process in the "Verb Noun" format. (Ex: Maintain Ownership)

Process Number

O.3.1 _____

Input	Description
Information/documentation for a presumption of Death request	Additional documentation for the presumption of death obtained by the probate program.
Tribal Purchase options	Resolution from the Tribe expressing intent to purchase property in an estate.

6.2 Outputs

Output	Description
Probate File	All the information and any needed documentation to determine the heirs of the estate or identify issues of fact that may require a hearing. These may include: Estate Assets Report, Document(s) verifying Decedents death, will, genealogy, claims, Appraisal/Valuation, Renunciation/Disclaimer, field research, internet people searches, any needed additional information/documentation for a presumption of death hearing, draft decision, Tribal purchase options and copies of the notices and postings (notice to interested parties).
Notices and Postings	Public notice of the death of a beneficiary at the decedent's home agency, foreign agencies and where they lived, if different from their home agency. Serves as notice to interested parties.



U.S. Department of the Interior
"To-Be" Trust Business Model
Process Template

Title: Prepare Probate Case

Identify the process in the "Verb Noun" format. (Ex: Maintain Ownership)

Process Number

O.3.1 _____

7. Fiduciary and Legal Obligations and Controls

7.1 Obligations

Identify and describe the legal and fiduciary obligations that impact this process. For each obligation, indicate the document or commitment that defines the obligation and the citation (paragraph or section) within the document that pertains to this process.

Obligation	Source	Business Impact
25 CFR 15		Change and combine with 43 CFR 4 to accommodate the new process.
43 CFR 4		Change and combine with 25 CFR 15 to accommodate the new process.
25 CFR Part 17		Action of will on Osage
25 CFR Part 16		Estates of Indians of the Five Civilized Tribes
5 USC 552 (FOIA)		Freedom of Information Act
5 USC 552a (Privacy Act)		Provides for the protection and accuracy of information about individuals.
5 USC 554 – 557		Administrative Procedures Act (APA) to ensure due process during the probate process.
Babbitt v. Youpee		The court decision finding ILCA unconstitutional because heirs of trust property that was escheated to Tribes were not compensated. This has and will continue to have a significant impact on probate.
Indian Land Consolidation Act (ILCA) of 1984, Amended 2000		The Indian Land Consolidation Act was passed to prevent further fractionation and to consolidate fractional interests in allotted lands. When there are no eligible heirs, land can be purchased by a co-owner or by the tribe in an effort to reduce fractionation and emphasize tribal sovereignty. ILCA also, in defining the term Indian, redefines who is eligible to hold land in Trust and cash. Has not been implemented and may be replaced by another amendment to ILCA.
25 USC 372 - General Allotment Act		Sec. 372. Ascertainment of heirs of deceased allottees; settlement of estates; sale of lands; deposit of Indian moneys If we want to include land in the expedited probate this might have to be changed (provide notice and hearing).
25 USC 355		Five Civilized Tribes act that commits the probates to state district court. May be amended by a proposed Five Nations



U.S. Department of the Interior
"To-Be" Trust Business Model
Process Template

Title: Prepare Probate Case

Identify the process in the "Verb Noun" format. (Ex: Maintain Ownership)

Process Number

O.3.1 _____

Obligation	Source	Business Impact
		Citizens Land Reform Act which would make DOI responsible for the probate of Five Nation beneficiaries trust/restricted estates.
25 USC 331		Osage authority to do Inter vivos trusts and state court to do Osage probates.
25 USC 373		Disposal by will of allotments held under trust.
25 USC 373(a)		Disposition of trust or restricted estate of intestate without heirs; successor tribe; sale of land.
25 USC 373(b)		Descent and distribution for restricted estate or homestead on the public domain
25 USC 372a		Heirs by adoption
25 USC 374		Attendance of witnesses – authority for judges to require attendance of witnesses at hearings to determine the heirs of decedents, held in accordance with sections 372 and 373.
25 USC 375		Determination of heirship of deceased members of Five Civilized Tribes
25 USC 375(a)		Jurisdiction of Secretary of the Interior over probate and distribution of estates not exceeding \$2,500 for the Five Civilized Tribes of Oklahoma.
25 USC 375(c)		Disbursement of sums not exceeding \$500 to heirs or legatees for the Five Civilized Tribes of Oklahoma.
25 USC 375(d)		Disposition of estates of intestate members of Cherokee, Creek, Chickasaw, Choctaw, and Seminole Nations of Oklahoma dying without heirs. Land will escheat back to the Tribe with jurisdiction.
25 USC 376		After August 1, 1914, any officer or employee appointed or designated by the Secretary of the Interior or the Commissioner of Indian Affairs as special examiner in heirship cases shall be authorized to administer oaths in investigations committed to him: Does not apply to Osage Indians nor to the Five Civilized Tribes of Indians in Oklahoma.
25 USC 378		Partition of allotment among heirs - If the Secretary of the Interior shall find that any inherited trust allotment or



U.S. Department of the Interior
"To-Be" Trust Business Model
Process Template

Title: Prepare Probate Case

Identify the process in the "Verb Noun" format. (Ex: Maintain Ownership)

Process Number

O.3.1 _____

Obligation	Source	Business Impact
		allotments are capable of partition to the advantage of the heirs, he may cause such lands to be partitioned among them, regardless of their competency, patents in fee to be issued to the competent heirs for their shares and trust patents to be issued to the incompetent heirs for the lands respectively or jointly set apart to them, the trust period to terminate in accordance with the terms of the original patent or order of extension of the trust period set out in said patent.
25 USC 379		Sale of allotted lands by heirs.
25 USC 356		Allowance of undisputed claims of restricted allottees of Five Civilized Tribes- No undisputed claims to be paid from individual moneys of restricted allottees, or their heirs, or uncontested agricultural and mineral leases (excluding oil and gas leases) made by individual restricted Indian allottees, or their heirs, shall be forwarded to the Secretary of the Interior for approval, but all such undisputed claims or uncontested leases (except oil and gas leases) shall be paid, approved, rejected, or disapproved by the Superintendent for the Five Civilized Tribes of Oklahoma: Provided, however, That any party aggrieved by any decision or order of the Superintendent for the Five Civilized Tribes of Oklahoma may appeal from the same to the Secretary of the Interior within thirty days from the date of said decision or order.
Tribal Probate Codes	Tribal Law	Approved Tribal Probate codes to be used in distributing trust assets in an estate.
Uniform Indian Probate Code	Law	One Indian Probate Code that supercedes all state codes now used.

7.2 Controls

Identify and describe any controls (enforcement mechanisms) that may be used to ensure that the process adheres to obligations and internal process requirements. Controls may be reviews, audits, segregated duties, etc. Indicate the reason that each control should be introduced (name the obligation that a control is intended to enforce; indicate any controls required to ensure consistency or reliability).

Control	Reason	Description
Estate Probate Program	To assure the probate file has complete and accurate information. This would mitigate to a great degree the risk in basing the probate	Workflow management tool that guides user through a probate. It is capable of prompting the user to ask additional questions based on previous answers supplied and/or requesting the proper documentation to verify answers



U.S. Department of the Interior
"To-Be" Trust Business Model
Process Template

Title: Prepare Probate Case

Identify the process in the "Verb Noun" format. (Ex: Maintain Ownership)

Process Number

O.3.1 _____

Control	Reason	Description
	decision on the record and assure the Deciding Official has the most complete file possible.	given. It is capable of generating any forms/letters needed to probate the estate and generates a proposed decision based on the input. It is a seamless tool that flows from one sub process to the next electronically. For the interim the tool will include all state, Tribal and national probate codes (when implemented) and is capable of identifying the appropriate code based on date of death and place of death. It cites the applicable code which is linked to the code for easy access. Identifies applicable code by date of death so that applicable probate codes will be used.)
BIA/Tribal Line Official concurrence and release to Adjudication	Quality assurance	BIA/Tribal Line Official checks for accuracy based on his personal knowledge and this also provides the Deciding Official with a contact when there are consistent problems with submitted packages.
Review of Probate File O.3.2.1	To assure the file is complete for either an expedited probate or referred for a hearing	This is the first step in Adjudicate Case. It is a review of the probate file for completeness by a staff attorney in the Office of Trust Adjudication. If incomplete it may be returned to Prepare Probate File. If complete and there are no issues of fact it is referred to Mail Proposed Decision. If issues of fact exist it is referred to Hold Hearing.



U.S. Department of the Interior
"To-Be" Trust Business Model
Process Template

Title: Prepare Probate Case

Identify the process in the "Verb Noun" format. (Ex: Maintain Ownership)

Process Number

O.3.1 _____

8. Mechanisms (Systems of Record) Identify the mechanisms, or systems, that are needed to support the process (ex: Ownership, Leasing, Workflow Management, Office Filing System, etc.). Indicate the information and activities, relevant to this process, that each system supports.

System Name	Support
Integrated Data	Information system containing all trust data
Estate Probate Program	Workflow management tool that guides user through a probate. It is capable of prompting the user to ask additional questions based on previous answers supplied and/or requesting the proper documentation to verify answers given. It is capable of generating any forms/letters needed to probate the estate and generates a proposed decision based on the input. It is a seamless tool that flows from one sub process to the next electronically.
Imaging Equipment	To image/microfilm documents of all hardcopy files at the submitting offices.
Hardcopy Records	Original probate records used to develop the electronic files.

9. Inter-Process Relationships Identify other trust processes that are related to this process (either predecessors or successors). If applicable, indicate the condition under which the processes are related.

9.1 Predecessors. Predecessors are processes that either produce information required by this process or that result in the need to execute this process.

Process No.	Name	Condition of Relationship
B.2.1	Update Beneficiary Personal Data	When BRDM identifies a beneficiary death they note their data base which in return prompts the appropriate agency/field/Tribal office.
P.1.4	Transmit Determination	Provide an Appraisal/valuation when needed.
B.2.4	Transfer Inquiry/ Request to Appropriate Office	Receive an inquiry or request from the BRDM process regarding a Probate.



U.S. Department of the Interior
"To-Be" Trust Business Model
Process Template

Title: Prepare Probate Case

Identify the process in the "Verb Noun" format. (Ex: Maintain Ownership)

Process Number

O.3.1 _____

9.2 Successors. Successors are processes that either use information produced by this process or that must be executed as a result of performing this process.

Process No.	Name	Condition of Relationship
O.3.2.1	Review of Probate File	Probates are reviewed to see if they meet criteria for a records based decision or if they will be assigned to a Judge for a hearing.
B.5.1	Conduct Outreach Activity	When probate staff identifies a problem with the Prepare Probate Case that can be resolved by a BRDM outreach they will work with BRDM to develop an outreach activity.
B.5.2	Post Outreach Activity	After an outreach activity the probate staff will analyze the effectiveness of the activity.
B.6.3.3	Payable Administration	Setup account payable on behalf of the deceased.

10. Comments Summarize any discussion, problems, issues or recommendations that should be considered when reviewing process performance. Category Values (Note, Best Practice, Decision, Problem, Issue, Recommendation)

Category	Comment
Issue	We need to look at the issues surrounding non-trust assets when the spouses share is a dollar amount.
Recommendation	We should be able to do a better job on presumption of death hearings if we define some of the criteria in the new regulations for declaring a beneficiary dead.
Recommendation	<p>A significant help in reducing the burden of Probates is the use of Inter vivos trusts. They are not included in the Probate process because they are part of estate planning (BRDM). They actually eliminate the need for a probate. We do Inter vivos trusts now at Osage with authority resting in legislation, see P.L. 98-576. An Inter vivos trust is created by an instrument which becomes operative during the life time of the beneficiary's and upon death does not require a probate. They would need to be updated at least annually which could be done in conjunction with beneficiary statements.</p> <p>Estate planning should include counseling on non-Indian spouses and could include issues like life-estates and disclaimers.</p> <p>Tax issues may arise if we do not do this by law.</p>
Recommendation	BRDM needs to continue using a solicitor for review of wills during estate planning